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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Angola, Argentina, Botswana, Brazil, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Ghana, Dominican Republic, Ecuador, Guatemala, Mali, Mexico, Mozambique, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Senegal, South Africa, Thailand, Timor-Leste, Togo and Uruguay: draft resolution

Access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria

The General Assembly,

Reaffirming the Universal Declaration of Human Rights[1] and the International Covenant on Economic, Social and Cultural Rights,[2]

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right,

Recalling Commission on Human Rights resolutions 2001/33 of 23 April 2001,[3] 2002/32 of 22 April 2002[4] and 2003/29 of 22 April 2003,[5]

Acknowledging that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria, are inseparable elements of an effective response and must be integrated into a comprehensive approach to respond to such pandemics,

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex.
[3] See *Official Records of the Economic and Social Council, 2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.
[4] Ibid., *2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.
[5] Ibid., *2003, Supplement No. 3* (E/2003/23), chap. II, sect. A.

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Stressing the importance of fully implementing the Declaration of Commitment on HIV/AIDS "Global Crisis — Global Action"[6] and taking note of the report of the Secretary-General on progress towards the implementation of the Declaration,[7]

Welcoming the continuing political commitment demonstrated at the high-level plenary meetings of the General Assembly devoted to the follow-up to the outcome of its twenty-sixth special session and the implementation of the Declaration of Commitment on HIV/AIDS, held on 22 September 2003,

Expressing its support for the work of the Global Fund to Fight AIDS, Tuberculosis and Malaria and of other international bodies combating such pandemics,

Bearing in mind World Health Assembly resolutions WHA 55.12 and WHA 55.14 of 18 May 2002 and WHA 56.30 of 28 May 2003,

Bearing also in mind the International Labour Organization Code of Practice on HIV/AIDS and the World of Work, adopted by the Governing Body of the International Labour Organization in June 2001,

Noting general comment No. 14 (2000) on the right to the highest attainable standard of physical and mental health (article 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session, in May 2000,[8]

Noting general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session, in January 2003,[9]

Alarmed that the HIV/AIDS pandemic claimed 3.1 million lives in 2002, that about 42 million people were living with HIV by the end of 2002, and that 25 million children under the age of 15, including 20 million in Africa, are projected to lose one or both parents owing to HIV/AIDS by 2010,

Fully aware that the failure to deliver antiretroviral treatment for HIV/AIDS to the millions of people who need it causes a global health emergency,

Recalling its resolution 57/294 of 20 December 2002, entitled "2001-2010: Decade to Roll Back Malaria in Developing Countries, particularly in Africa",

Alarmed that, according to the global Roll Back Malaria partnership, malaria annually causes more than 1 million deaths, around 90 per cent of which are in Africa, that malaria is the leading cause of death in young children and that malaria causes at least 300 million cases of acute illness each year,

Alarmed also that, according to the World Health Organization report of 2003 on global tuberculosis control,[10] tuberculosis kills about 2 million people each year, 7 million to 8 million people around the world become sick with tuberculosis each

[6] Resolution S-26/2, annex.

[7] A/58/184.

[8] *Official Records of the Economic and Social Council, 2001, Supplement No. 2* (E/2001/22), annex IV.

[9] CRC/GC/2003/3.

[10] WHO/CDS/TB/2003.316.

year and it is projected that between 2002 and 2020 36 million people will die of tuberculosis if control is not further strengthened,

Acknowledging the significance of HIV/AIDS in the increase in tuberculosis and other opportunistic diseases,

Welcoming the initiatives of the Secretary-General and relevant United Nations agencies, States and civil society, including the private sector, to make drugs related to HIV/AIDS, tuberculosis and malaria more accessible and affordable to infected persons, especially in developing countries, and noting that much more could be done in this regard,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights and Public Health, adopted by the Fourth Ministerial Conference of the World Trade Organization in Doha on 14 November 2001,[11] and *welcoming* the decision of the General Council of the World Trade Organization of 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration,

Recognizing that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

Emphasizing, in view of the increasing challenges presented by pandemics such as HIV/AIDS, tuberculosis and malaria, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS, tuberculosis and malaria and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Welcomes* the commitment of the World Health Organization and the Joint United Nations Programme on HIV/AIDS to work with the international community to support developing countries in achieving the global target of providing antiretroviral medicines to 3 million people infected with HIV/AIDS by the end of 2005, the "3 by 5" target;

3. *Takes note with interest* of the interim report of the Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;[12]

4. *Calls upon* States to develop and implement national strategies, in accordance with applicable international law, including international agreements acceded to, in order progressively to realize access for all to prevention-related goods, services and information as well as access to comprehensive treatment, care and support for all individuals infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria;

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[11] WT/MIN(01)/DEC/2. Available on the Internet at http://docsonline.wto.org.

[12] A/58/427.

5. *Also calls upon* States to establish or strengthen national health and social infrastructures and health-care systems, with the assistance of the international community as necessary, for the effective delivery of prevention, treatment, care and support to respond to pandemics such as HIV/AIDS, tuberculosis and malaria;

6. *Further calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:

(a) The availability in sufficient quantities of pharmaceutical products and medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them;

(b) The accessibility and affordability for all without discrimination, including the most vulnerable or socially disadvantaged groups of the population, of pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(c) The assurance that pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;

7. *Calls upon* States, at the national level, on a non-discriminatory basis, in accordance with applicable international law, including international agreements acceded to:

(a) To refrain from taking measures that would deny or limit equal access for all persons to preventive, curative or palliative pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(b) To adopt and implement legislation or other measures, in accordance with applicable international law, including international agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceutical products or medical technologies from any limitations by third parties;

(c) To adopt all appropriate positive measures, to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceutical products or medical technologies;

8. *Also calls upon* States, in furtherance of the Declaration of Commitment on HIV/AIDS,[6] to address factors affecting the provision of drugs related to the treatment of pandemics such as HIV/AIDS and the most common opportunistic infections that accompany them, as well as to develop integrated strategies to strengthen health-care systems, including voluntary counselling and testing, laboratory capacities and the training of health-care providers and technicians, in order to provide treatment and monitor the use of medications, diagnostics and related technologies;

9. *Further calls upon* States to take all appropriate measures, nationally and through cooperation, to promote research and development of new and more effective preventive, curative or palliative pharmaceutical products and diagnostic

tools, in accordance with applicable international law, including international agreements acceded to;

10. *Calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(a) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceutical products or medical technologies used to treat pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(b) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies which promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical products and medical technologies;

11. *Welcomes* the financial contributions made to date to the Global Fund to Fight AIDS, Tuberculosis and Malaria, urges that further contributions be made to sustain the Fund, and calls upon all States to encourage the private sector to contribute to the Fund as a matter of urgency;

12. *Calls upon* the Joint United Nations Programme on HIV/AIDS to mobilize further resources to combat the HIV/AIDS pandemic and upon all Governments to take measures to ensure that the necessary resources are made available to the Joint United Nations Programme on HIV/AIDS, in line with the Declaration of Commitment on HIV/AIDS;

13. *Also calls upon* States to ensure that those at risk of contracting malaria, in particular pregnant women and children under five years of age, benefit from the most suitable combination of personal and community protective measures, such as insecticide treated bed nets and other interventions that are accessible and affordable, to prevent infection and suffering;

14. *Further calls upon* States to provide the necessary support for the World Health Organization Roll Back Malaria and Stop Tuberculosis partnerships in ongoing measures to combat malaria and tuberculosis;

15. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria through financial and technical support, as well as through the training of personnel;

16. *Invites* the Committee on Economic, Social and Cultural Rights to give attention to the issue of access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria and invites States to include appropriate information thereon in the reports they submit to the Committee.